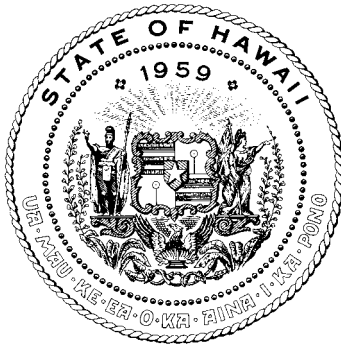


REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
2006 REGULAR SESSION

ON THE STATUS OF THE ISSUANCE OF INCIDENTAL TAKE
LICENSES FOR ENDANGERED, THREATENED, PROPOSED,
AND CANDIDATE SPECIES; AND THE CONDITION OF
THE ENDANGERED SPECIES TRUST FUND
FOR THE PERIOD JULY 1, 2004 – JUNE 30, 2005



PREPARED BY

THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE

IN RESPONSE TO SECTION 195D-26, HAWAII REVISED STATUTES

HONOLULU, HAWAII
NOVEMBER 2005

**REPORT ON THE STATUS OF THE ISSUANCE OF
INCIDENTAL TAKE LICENSES FOR ENDANGERED, THREATENED,
PROPOSED, AND CANDIDATE SPECIES; AND THE CONDITION
OF THE ENDANGERED SPECIES TRUST FUND
FOR THE PERIOD JULY 1, 2004 – JUNE 30, 2005**

PURPOSE

Act 380, Session Laws of Hawaii (SLH) 1997, amended the State Endangered Species law, Chapter 195D, Hawaii Revised Statutes (HRS), to provide for the preparation and implementation of habitat conservation plans and safe harbor agreements, and to provide additional incentives for private landowners to recover and protect threatened and endangered species on their lands. One of the provisions of that Act (§195D-26, HRS), required that an annual report be prepared by the Department of Land and Natural Resources (DLNR) on the effectiveness of habitat conservation plans (HCPs) or safe harbors agreements (SHA's) issued under Chapter 195D, HRS, and the status of all species for which incidental take licenses have been issued. In addition, the annual report is to include a description of the condition of the Endangered Species Trust Fund established under §195D-31, HRS, and any recommendations to further the purposes of this chapter. This annual report is submitted to fulfill the reporting requirement for Fiscal Year (FY) 2005.

FINDINGS

Effectiveness Of Habitat Conservation Plans (HCP) And Safe Harbor Agreements (SHA's) Issued Under Chapter 195D, HRS

The following HCPs and SHA's have been issued as of June 30, 2005.

1. Reintroduction of Nene (Hawaiian Goose) to Puu O'Hoku Ranch, Molokai. Issued: September 4, 2001. The Puu O'Hoku Ranch was issued the first SHA in Hawaii. The Agreement calls for Puu O'Hoku Ranch to allow the reintroduction of Nene on Puu O'Hoku Ranch, construct a release pen, provide habitat for Nene grazing and breeding, and to control predators in the release pen and Nene breeding areas. During FY 2005, a total of 11 Nene were released into the release pen (4 males and 7 females) during one release (May 31, 2005.) There were 12 nesting attempts within the release pen, with 21 goslings produced. The trapping program continued and other areas of the Ranch; 17 mongoose, 2 rats and 5 mice were trapped and removed. The Ranch ran a cattle and horse grazing operation to maintain the 735 acre Cape Halawa in pasture and short grass habitat for Nene use, and the release pen was mowed on a monthly basis, and an additional 2 acres were mowed around the release pen on a semi-annual basis. During FY 2005 two Nene were found dead; one from a vehicle impact on a public road and one from unknown causes. There were no birds taken on the Incidental Take License. Since the start of the Agreement, 74 birds have been released, 34 goslings produced, and 4 deaths.

2. SHA and Habitat Management Plan for Koloa (Hawaiian Duck) and Nene on Umikoa Ranch, Island of Hawaii. Issued: December 5, 2001. The Umikoa SHA calls for the creation and management of 2.0 acres of wetland ponds and 150 acres of riparian and associated uplands, fencing ponds, predator and weed control, and outplanting of food items to benefit Koloa and Nene. As per the SHA, 8 permanent and 2 seasonal ponds ranging from 0.05 to 0.57 acres (totaling 2.01 acres) and 151.3 acres of ponds and uplands have been fenced, and are being managed for Koloa and Nene. The Ranch has continued its predator control program using diphacinone mongoose bait in pond areas in FY 2005. The current Koloa population is estimated to be 6 birds, which is 3 times the baseline number at the beginning of the Agreement. There were no birds taken on the Incidental Take License.
3. Programmatic SHA for the Nene on the Island of Molokai. Issued: April 7, 2003. This is the first "programmatic" SHA in the State; such that DLNR'S Division of Forestry and Wildlife (DOFAW) is the permittee and individual landowners ("Cooperators") enroll through Cooperative Agreements with DOFAW, and are covered under DOFAW's Agreement and License. Landowners can voluntarily enroll by signing a Cooperative Agreement with the State, which commits them to make appropriate habitat on their land available to Nene for a period of 10 years, and in return the landowner receives assurances from both state and federal agencies that they will not be held responsible if Nene should be accidentally harmed or killed on their property for the duration of the permit, which expires in 2053. There were no landowners enrolled under this Agreement prior to the end of FY 2005. DOFAW has conducted the necessary baseline surveys on the Ranch immediately adjacent to Puu O Hoku Ranch where Nene reintroduction is occurring, and will be negotiating the terms of a Cooperative Agreement with the landowner in FY 2006.
4. A Conservation Plan for Hawaiian Stilt at Cyanotech Aquaculture Facility Keahole Point, Hawaii. Approved June 13, 2002; Incidental Take License issued December 24, 2003 after the applicant provided DLNR with a security deposit, to ensure that the costs of mitigation and monitoring are secured. The Incidental Take License was scheduled to terminate on March 17, 2005, but was extended for 1 year to allow the applicant time for additional data collection and analysis, continued work on minimization efforts, and the opportunity to identify possibilities for mitigation for the next conservation plan. The Plan covers ongoing operations and maintenance activities at Cyanotech's Aquaculture Facility within the Natural Energy Laboratory of Hawaii (NELHA) along the Kona Coast, and provides mitigation for the accidental loss of juvenile stilts in the facility's production ponds. The following mitigation measures have been implemented: 1) Cyanotech created and maintained a 1.7-acre pond to produce optimum stilt breeding habitat – 48 stilt chicks were fledged before the pond was drained and netted, to prevent further nesting at the facility because of safety concerns at the adjacent Kona Airport; 2) Predator control was conducted to reduce mortality of stilts present at the facility; and 3) Deterrent measures were

implemented to discourage stilts from occupying the facility. During FY 2005, 1 dead stilt was recovered from the Cyanotech Facility, but was not attributed to activities conducted by Cyanotech since it appeared to have been predated by a cat.

5. HCP for *Abutilon menziesii* at Kapolei, Oahu. Approved April 8, 2004; Incidental Take License was issued on March 18, 2005 after the Hawaii Department of Transportation (DOT) transferred funds to DLNR to cover the costs of implementing the mitigation and monitoring described in the Plan. This HCP was developed to cover the impacts to the endangered plant species, *Abutilon menziesii*, that will occur on 1,381-acres of State and city-owned property, which is the site of the proposed construction of the North-South Road Highway, Kapolei Parkway and subsequent developments, and the measures that will be taken to mitigate the impacts. Although DOT is the sole applicant, the implementation of the HCP mitigates for the impact of development actions that may be conducted by other agencies/organizations that are not yet identified. The HCP outlines a strategy to take cuttings and collect seeds from the existing plants prior to their removal and using these materials to: 1) Maintain genetic representation of the original population by growing cuttings in nurseries and placing seeds in seed storage facilities; and 2) To establish three new populations in protected areas elsewhere on Oahu. In addition, the HCP provides funding to protect and maintain the wild populations for a minimum period of 20 years to assure that they will survive. Cuttings from plants continue to be propagated in the greenhouse and to date, *Abutilon menziesii* has been outplanted at five sites on Oahu: Diamond Head State Park, United States Fish & Wildlife Service's Honouliuli Wildlife Refuge, Na Ala Hele's Kealia Trail, Kaena Point State Park, and City of Honolulu's Koko Crater Botanical Garden. Three of these sites will be used towards the goal of establishing three self-sustained wild populations (Diamond Head, Honouliuli Wildlife Refuge, and Kaena Point). The Koko Crater Botanical Garden population functions as a protected repository for the Kapolei population. The Kealia Trail site was an experimental site to test the biological requirements of the plant. The main focus for the past year has been to outplant additional plants at the Honouliuli site and to establish a population at Diamond Head. Individual plants in the existing population where development will occur are being transplanted into an approximately 18-acre "Contingency Reserve Site" established on the site.
6. SHA for the Introduction of the Nene to Piihola Ranch, Maui – Issued: September 21, 2004. Under this Agreement, Piihola Ranch is maintaining or improving approximately 600 acres of Nene habitat on the Ranch for a period of 10 years by continuing cattle ranching operations, thereby maintaining open, short-grass habitat; in cooperation with DOFAW, a Nene release pen was constructed and the Ranch has agreed to control predators around breeding and release sites and outplant native plant species known to be Nene food sources. During FY 2005, a total of 5 Nene were released into the release pen (1 male and 4 females) during

one release (September 21, 2004.) There were no birds taken on the Incidental Take License.

7. SHA for Chevron Hawaii Refinery, James Campbell Industrial Park, Oahu. Approved by the Board of Land & Natural Resources on June 24, 2005; Incidental Take License not yet issued. This SHA is for the management of nesting and foraging habitat for endangered Hawaiian Stilt and Hawaiian Coot at the Chevron Refinery Hawaii at the James Campbell Industrial Park on Oahu. The Agreement has a term of 6 years and during that period Chevron will maintain 6 acres of stilt nesting habitat and 5 acres of habitat for stilt and coot foraging. Chevron will manage the water level and vegetation in a basin known as Rowland's Pond to maximize nesting habitat and conduct predator control around Rowland's Pond and several other ponded areas within the refinery to provide additional foraging habitat. Chevron has committed to monitor the stilts and coots occurring on their property and implement adaptive management strategies, should current management activities appear ineffective. In addition, Chevron will conduct an education program for its employees and contractors about the Hawaiian Stilt and Hawaiian Coot at the refinery. The Incidental Take License will be issued once the final SHA is signed by all parties.

Endangered Species Recovery Committee

The following individuals served on the Endangered Species Recovery Committee during FY 2005:

Mr. Peter T. Young, Chairperson, BLNR.

Designated Representative – Mr. Dan Davidson and Mr. Bob Matsuda, Deputy Directors for Land, Department of Land and Natural Resources, Honolulu, HI; Mr. Paul Conry and Dr. Scott Fretz, Administrator and Wildlife Program Manager respectively, of the Division of Forestry and Wildlife, Honolulu, HI. (Agency Representative)

Mr. Jeff Newman and Ms. Gina Schultz, Acting Ecoregion Managers,

USFWS - Pacific Islands Ecoregion

Designated Representative - Mr. Jeff Newman, USFWS.

Dr. William Steiner, Director, United States Geological Survey (USGS)-

Biological Resources Division (BRD), Honolulu

Designated Representative - Dr. James Jacobi, USGS-BRD,
Hawaii National Park, HI. (Agency Representative)

Dr. John Harrison, Executive Director, University of Hawaii Environmental Center, University of Hawaii, Manoa, HI. (University Representative)

Mr. Joby Rohrer, Honolulu, HI (Appointed Member, Term expires June 30, 2005).

Ms. Karen Poiani, Honolulu, HI (Appointed Member, Term expires June 30, 2007).

The Committee met four times during the reporting period and visited two project sites: one for a proposed HCP for the Kaheawa Pastures Wind Energy Generation Facility on Maui, and the other for a proposed SHA for endangered plants on Waahila Ridge, Oahu. The Committee reviewed a request for a 1-year extension to the HCP and Incidental Take License for the Cyanotech Aquaculture Facility, Hawaii, a draft SHA for Chevron Hawaii Refinery at James Campbell Industrial Park, Oahu that was proposed for final approval, and a draft HCP for the Kaheawa Pastures Wind Generation Facility on Maui that was proposed to be released to the public, and submitted recommendations to the BLNR.

Status Of The Endangered Species Trust Fund (T-919 and S-324 accounts)	
Beginning Balance of Fund on July 1, 2004	40,492
Revenues during FY 2005	89,626
Expenditures during FY 2005:	25,882
Cash Balance as of June 30, 2005	104,236
Unpaid encumbrances as of June 30, 2005:	0
Unencumbered Cash for carryover as of June 30, 2005:	104,236

Summary of Revenues FY 2005	
Investment Pool	894
Fees, Administrative Overhead	94
Cyanotech, Inc.	88,638
Total Revenue for FY 2005	89,626

Summary of Expenditures FY 2005	
Other Exp.-Special Fund Assess	262
R&M- Grounds/Routine	18,750
Total Expenditures	19,012

FY 2005 EXPENDITURES

The sources of revenue for the Endangered Species Trust Fund are from implementation of SHAs, donations earmarked for endangered species projects, and proceeds from the sale of environmentally-themed products such as endangered species stamps, posters, books, etc., sold to the public to raise money for conservation of Hawaii's resources. Act 144, SLH 2004, amended the provisions establishing the Endangered Species Trust Fund to change this Fund from a special fund to a trust fund, and to allow deposits of money provided as security, or to implement the obligations of a habitat conservation plan. Trust funds are not currently assessed central services and administrative costs. This change in the statute should help encourage donations and use of the Trust Fund by contributors and donors that have expectations that monies deposited into the Trust Fund, will be protected and available in the future for use on the intended purpose, such as actions required to implement HCPs or SHAs.

Interest income (\$894), proceeds from the sale of Endangered Plant Tags (\$94), and a deposit from Cyanotech, Inc. (\$88,638) account for the revenue into the fund in FY 2005. The Cyanotech monies are to be held as a bond to ensure that mitigation work outlined in the Cyanotech Habitat Conservation Plan are adequately funded. The revenue derived from interest will be allotted to the various projects from which it was earned and the revenue from plant tags will be reserved and used to purchase new tags when time to reorder.

All expenditures made from the Endangered Species Trust Fund during FY 2005 were in support of the Hamakua Marsh Restoration Project. Interest income and proceeds from the sale of Endangered Plant Tags account for the revenue into the Fund in FY 2005. The revenue derived from interest will be allotted to the various projects from which it was earned, and the revenue from plant tags will be reserved and used to purchase new tags when time to reorder.

Recommendations

1. Remove the sunset date on the approval of new SHAs, HCPs, and incidental take licenses by amending Section 13 of Act 3, SLH, 2001.